IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 27041 of 2006(T)

PETITIONER:

P.A. RAVI, S/O. AYYAPPAN,
CONDUCTOR, SPECIAL GRADE, K.S.R.T.C., KODUNGALLOOR
RESIDING AT PALLATHUKATTIL HOUSE, T.K.S.PURAM,
KODUNGALLOOR.

BY ADV. SRI.P.JAYAKUMAR
SRI.V.N.MOHANADASAN

RESPONDENTS:

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1. MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, TRIVANDRUM.

2. ASSISTANT TRANSPORT OFFICER,
K.S.R.T.C., N.PARUR.

3. MECHANICAL ENGINEER,
REGIONAL WORKSHOP, K.S.R.T.C., ALUVA.

4. SECRETARY,
MUVATTUPUZHA K.S.R.T.C. EMPLOYEES' CO-OPERATIVE
SOCIETY LTD.NO.E.820, MUVATTUPUZHA.

5. USHA RAJU, W/O. RAJU (LATE),
(SERGEANT K.S.R.T.C. REGIONAL WORKSHOP, ALUVA),
PERUMAPADATHU HOUSE, MULAKUMATHI KAVU,
TRICHUR P.O.

6. SLEEBA JOHN,
ASSISTANT DEPOT ENGINEER, K.S.R.T.C., MUVATTUPUZHA

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C. R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 PHOTOCOPY OF THE REQUEST DATED 15.6.2006 OF THE SOCIETY.

EXHIBIT P2 PHOTOCOPY OF THE PAY SLIPS FOR THE MONTH

EXHIBIT P3 PHOTOCOPY OF THE CERTIFICATE DATED 27.9.2006 BY THE SOCIETY.

EXHIBIT P4 PHOTOCOPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT.

EXHIBIT P5 PHOTOCOPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

K. PADMANABHAN NAIR, J.

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W.P(C). NO. 27041 OF 2006

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Dated this the 14th day of February, 2007

J U D G M E N T

Petitioner was a surety to a loan obtained by late P.V. Raju, who was the husband of 5th respondent. Late Raju, who was an employee of the KSRTC, availed a loan of Rs.50,000/- from the 4th respondent. The amount was not repaid. Fourth respondent has initiated action for recovery of the amount from the salary of the petitioner. A request was made by the 4th respondent to the District Transport Officer, KSRTC, Kodungallur to recover Rs.1,500/- per mensum from the salary of the petitioner. Challenging that request, this Writ Petition is filed.

2. It is submitted by the counsel appearing for the petitioner that 4th respondent is not taking any steps against the principal debtor or other co-obligants for recovery of the amount.

3. Since the liability of the petitioner is joint and several, he is estopped from raising a contention that creditor can recover from the guarantor only if the principal debtor fails to make repayment. It is seen that in pursuance of the interim order

passed by this Court deduction from petitioner's salary at the rate of Rs.750/- per mensum is being made.

4. Standing counsel for the KSRTC submitted that it will take at least three years to disburse the death cum retirement benefits due to deceased Raju to his heirs. I do not think it just and proper to direct the 4th respondent to wait for three years. By that time the quantum of the amount will also increase substantially. But considering the facts and circumstances of the case, I am of the view that it is only just and proper for the 4th respondent to consider the request of the petitioner for the benefit under the One Time Settlement Scheme in case petitioner files an application to that effect.

In the result, Writ Petition is disposed of in the following manner: It is open to the petitioner to file a petition claiming a statement of account from the 4th respondent, which shall be filed within two weeks from today. The 4th respondent shall furnish a statement of account to the petitioner. On receipt of that statement, petitioner shall file an application before the 4th respondent claiming the benefit under the One Time Settlement

Scheme. Since Rs.750/- is being deducted from the salary of the petitioner, he need not deposit 10% of the amount due for the time being as a condition for claiming the benefit under the One Time Settlement Scheme. If such an application is received, 4th respondent shall consider the same and pass appropriate orders in the matter within six weeks from the date of receipt of the application. Interim order passed on 13.10.2006 shall be in force for a further period of three months. Recovery thereafter will be subject to the result of the orders to be passed by the 4th respondent.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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. R.P. NO.

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O R D E R

4TH JANUARY, 2007